

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1864.02  
 COMPLAINT INVESTIGATOR: Brian Simkins  
 DATE OF COMPLAINT: January 30, 2002  
 DATE OF REPORT: March 1, 2002  
 REQUEST FOR RECONSIDERATION: no  
 DATE OF CLOSURE: March 19, 2002

**COMPLAINT ISSUES:**

Whether the Jay School Corporation violated:

511 IAC 7-23-1(p) by disclosing personally identifiable information about the student, without the parent's consent, to individuals other than the parent or authorized public agency officials.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically:

- a. failing to allow the student shortened assignments;
- b. failing to modify the format of maps and diagrams to accommodate the student's vision impairment; and
- c. failing to highlight texts and study guides.

511 IAC 7-17-72 by failing to designate a single individual as the student's teacher of record.

**FINDINGS OF FACT:**

1. The Student is thirteen years old and attends the local middle school (the "School"). The Student is eligible for special education and related services as a student with an orthopedic impairment.
2. The Student participates in wrestling for which the School requires a sports physical. The Student's most recent sports physical, dated October 26, 2001, clears the Student for participation in wrestling and is signed by a private physician that is not the Student's regular physician. On November 1, 2001, at the request of a school administrator, the school nurse contacted the private physician's office to ask questions regarding the physician's clearing the Student for participation in wrestling. The School reports it was concerned about the Student's safety and benefit of participation in light of hip surgery in January 2000. The school nurse spoke with the physician's supervising nurse about the student, expressing concern for the Student's safety and inquiring whether this new physician was aware of the Student's recent medical history. According to the School, the supervising nurse reported that the Student's regular physician said it was permissible for the Student to give wrestling a try. The parent did not give consent for the school nurse to contact the student's physician.
3. The Student's IEP, dated October 18, 2001, requires the Student to be provided with shortened assignments, specifically for mastery of math assignments when the Student is absent. Other assignments may be shortened if necessary. The Complainant asserts that the Student's assignments are not being shortened. However, the Complainant was unable to identify specific instances in which an assignment was not shortened.

4. The Student's IEP, dated October 18, 2001, also requires the use of large print materials to accommodate the Student's visual impairment. The Complainant asserts that the School has failed to modify the format of maps and diagrams to accommodate the Student's vision impairment but was unable to identify a specific assignment in which this modification was not implemented. The School provided an example of a map assignment that had been modified for the Student. An already enlarged map was enlarged to 130%, and the Student's scribe used red ink to record the Student's answers on the assignment.
5. The Student's IEP, dated October 18, 2001, requires highlighted texts and study guides. The Complainant specifically identifies an assignment given on more than one occasion requiring the Student to highlight main points in a packet of twelve or more pages. The main points are not highlighted on this type of assignment for the Student. The IEP specifically states: "[h]ighlighted texts/study guides (yellow)." The School reports that this assignment was not a study guide but part of a project in which students worked with partners. The Student's instructional assistant pulled material from the Internet to give to the Student to take home. This was intended to help the Student participate in the project by highlighting relevant points that could be used for completion of the project.
6. The Student's IEP, dated October 18, 2001, indicates that two special education teachers are assigned to the Student, but no single teacher of record ("TOR") has been assigned. The School acknowledges that there are two teachers who work with the Student and no single special education teacher is designated as the TOR.

## CONCLUSIONS:

1. Finding of Fact #2 indicates that the School shared personally identifiable information about the Student without the parent's consent. Although disclosure without parental consent is permitted in a health or safety emergency, there was no emergency in this case as the School was questioning a sports physical. Therefore, a violation of 511 IAC 7-23-1(p) is found.
2. Finding of Fact #3 reflects that, although the Complainant asserts the School is not implementing the accommodation requiring shortened assignments as required by the October 18, 2001, IEP, the Complainant was unable to identify any instances in which the School failed to provide such an accommodation. Therefore, no violation of 511 IAC 7-27-7(a) is found in regard to shortened assignments.
3. Finding of Fact #4 indicates that, although the Complainant asserts the School is not modifying the format of maps and diagrams to accommodate the Student's vision impairment, the Complainant was unable to identify any instances in which the School failed to provide such an accommodation. The School provided an example of a map assignment that had been significantly enlarged and for which the Student's scribe utilized red ink to accommodate the Student's vision impairment. Therefore, no violation of 511 IAC 7-27-7(a) is found in regard to modifying maps and diagrams.
4. Finding of Fact #5 reflects that the Student's IEP requires the highlighting of textbook text and study guides. According to the Student's IEP, it is not necessary to highlight other materials. Although the Complainant asserts that the School should have highlighted a particular assignment, the School did not fail to implement the Student's IEP when putting material together in a packet to take home to ensure the Student's participation in a class project. No violation of 511 IAC 7-27-7(a) is found in regard to highlighting texts.

5. Finding of Fact #6 indicates the School failed to assign a single teacher of record for the Student. Therefore, a violation of 511 IAC 7-17-72 is found.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Jay School Corporation shall:

1. Send a written reminder to all staff regarding confidentiality of personally identifiable information of all students. The memorandum shall include the requirements for parental consent for disclosure of such information and the school's policy for access to and disclosure of such personally identifiable information in accordance with 511 IAC 7-23-1. A copy of the memorandum and a list of all individuals to whom the memorandum was sent shall be submitted to the Division no later than March 22, 2002.
2. Immediately assign a teacher of record for the student in accordance with the requirements of 511 IAC 7-17-72, and send written notice to the parent of the name of the individual assigned. A copy of the notice sent to the parent shall be submitted to the Division no later than March 22, 2002.

DATE REPORT COMPLETED: March 1, 2002